

1636  
Hw

Practitioner's Office No. U 015529-5

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Fabienne Andrea FULDE, et al.

Application No.: 10/517,497

Group No.: 1636

Filed: May 26, 2005

Examiner: C. Qian

For: IN VITRO SCREENING OF CELLULAR EVENTS USING 3D CELL CULTURE SYSTEMS

**Commissioner for Patents**

**P. O. Box 1450**

**Alexandria, VA 22313-1450**

**ATTENTION: Director, Group 1636**

**REQUEST FOR WITHDRAWAL AS ATTORNEY (37 C.F.R. 10.40(c))**

**NOTE:** *If a period has been set for response and the period may be extended without a showing of cause pursuant to 37 C.F.R. § 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed. M.P.E.P. § 402.06, 8<sup>th</sup> ed.*

**WARNING:** *If the Request for Withdrawal is filed after mailing of the Notice of Allowance it can result in a reduction in patent term under 37 C.F.R. § 1.704(c)(10). Therefore, care should be taken to resolve the question of withdrawal before this possibility.*

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***

*(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☒ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

**37 C.F.R. 1.8(a)**

**37 C.F.R. 1.10\***

☒ with sufficient postage as first class mail.



as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

☐ transmitted by facsimile to the Patent and Trademark Office, to (571)-273-8300

Date: October 15, 2007

Signature

William R. Evans

(type or print name of person certifying)

*\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

## REQUEST FOR PERMISSION TO WITHDRAW

1. I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 C.F.R. 1.36.

*(complete the following item, if appropriate)*

- ☐ Because the amendment referred to in item 4A(iii) below is a continuing application signed only by an attorney named below this withdrawal request is also for such continuing application.

### LAST KNOWN ADDRESS OF CLIENT

2. The last known mailing address of the:

- ☐ inventor(s)  
☒ assignee of the entire interest by unrecorded Assignment of 20 January 2005 (copy attached)

is Millenium Biologix AG  
Wagistrasse 23, CH-8952 Schileren, Switzerland .

### BASIS FOR WITHDRAWAL REQUEST

3. The basis for the request for withdrawal is 37 C.F.R. 10.40(c) §(§) \_\_\_\_\_(iv)\_\_\_\_\_.

Explanation (including brief description of exhibits, if any):

Copy of e-mail of September 27, 2007 informing of assignee's bankruptcy.

Copy of letter of September 28, 2007 to assignee.

Copy of envelope returning letter of September 28, 2007, with PostMail sticker marked, in English translation of the Swiss (German) "Return ☒ Addressee cannot be found at given address."

*(add additional page(s), as required for explanation)*

## ALLOWANCE OF TIME FOR CLIENT TO ACT

### 4. Status of this Application

#### A. Response due *(if any)*

- (i) ☐ There is no outstanding term for response.
- (ii) ☒ There is an outstanding term for response that is set to expire on July 25, 2007.  
The above term is extendible under 37 C.F.R. 1.136(a), until December 25, 2007 and the fees for such extension
- ☐ are
- ☒ are not  
being submitted herewith.

*(complete the following, if applicable)*

- (iii) ☐ Also submitted herewith, is a response to the outstanding Official Action.

#### B. Time Left for Response

Therefore, the amount of time for response, including extension under 37 C.F.R. 1.136(a), is:

☒ at least 2 months.

☐ cannot be calculated because this case is/will now be awaiting action by the PTO.

## NOTIFICATION OF CLIENT

5. In accordance with 37 C.F.R. 10.40(a), a copy of this request, including attachments, is being sent to the assignee.

A copy of the letter to the assignee is attached.

*NOTE: A practitioner shall not withdraw from employment without giving due notice to his or her client. 37 C.F.R. 10.40(a).*

## NUMBER OF COPIES OF REQUEST

6. This request is enclosed in triplicate.

*NOTE: "To expedite the handling of request for permission to withdraw as attorney under 37 C.F.R. § 1.36 submit the request in triplicate (original and two copies). . ." Notice of September 3, 1985 (1058 O.G. 32).*

7. Related Applications for Which Withdrawal is Requested

Withdrawal also is (has been) requested in the following related applications of the:

(check all applicable items)

- ☐ inventor:  
☐ assignee:  
☐ common representative:

<u>Application Number</u>	<u>Group</u>	<u>Status of Withdrawal request</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**SIGNATURE(S) OF WITHDRAWING ATTORNEY(S) (PRACTITIONER(S))**


NOTE: Each attorney of record must sign the notice of withdrawal or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another. M.P.E.P. § 402.06, 6<sup>th</sup> ed. rev. 3.

8. Signature(s) of the attorney(s) withdrawing (or signature of an authorized attorney on behalf of an attorney withdrawing)

(list all the attorneys, and registration numbers, appearing on declaration or power, as appropriate. An authorized attorney signing on behalf of a withdrawing attorney should also show his or her registration number.)

  
Signature of withdrawing attorney

JOSEPH H. HANDELMAN, 26179  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

JOHN RICHARDS, 31053  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

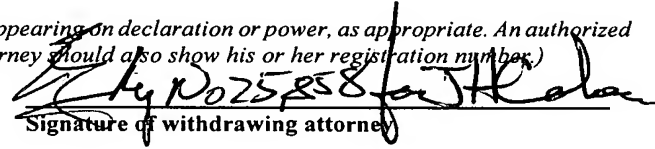
RICHARD STREIT, 25765  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

PETER D. GALLOWAY, 27885  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

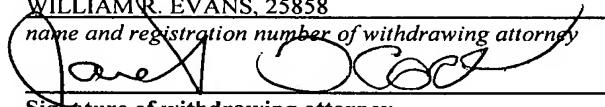
RICHARD P. BERG, 28145  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

JULIAN H. COHEN, 20302  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

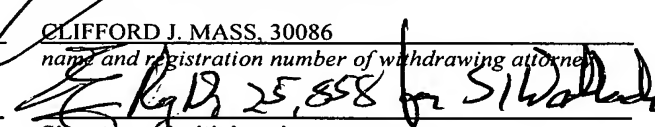
WILLIAM R. EVANS, 25858  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

JANET I. CORD, 33778  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

CLIFFORD J. MASS, 30086  
name and registration number of withdrawing attorney

  
Signature of withdrawing attorney

STEVEN I. WALLACH, 35402  
name and registration number of withdrawing attorney

Reg. No.:

Tel. No.: (    )

Customer No.:



---

**SIGNATURE OF PRACTITIONER**

**William R. Evans, 25858, (212) 708-1930**

*(type or print name of practitioner)*

---

P.O. Address

---

c/o Ladas & Parry LLP  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023

For: ☐ U.S. and/or ☐ Foreign Rights  
For: ☒ U.S. Application or  
      ☐ U.S. Provisional Application  
For: ☐ U.S. Patent  
For: ☐ PCT Application  
By: Multiple Inventors

**ASSIGNMENT OF INVENTION (MULTIPLE INVENTORS)**

In consideration of the payment by ASSIGNEE to ASSIGNOR of the sum of One Dollar (\$1.00), the receipt of which is hereby acknowledged, and for other good and valuable consideration,

**ASSIGNORS (Inventors):**Fabienne Andrea FULDE*(type or print name of inventors)*Scheffelstrasse 12,CH-8037 Zurich, SwitzerlandAddressGermanNationalityHAGG  
Rupert MEULMAN~~Ruggenweg 20, Opfikonstr. 15~~CH-8405, Winterthur, SwitzerlandAddress8303 BassersdorfGermanNationalityRoberto TOMMASINIMattenweg 14,CH-8610 Uster, SwitzerlandAddressItalianNationalityNationalityAddressNationality

Added page(s) for signature by subsequent inventors. Number of pages added



(if assignment is by person or entity to whom invention was previously assigned  
and this was recorded in PTO, add the following)

Recorded on \_\_\_\_\_

Reel \_\_\_\_\_

Frame \_\_\_\_\_

hereby sells, assigns and transfers to  
ASSIGNEE

MILLENIUM BIOLOGIX AG

(type or print name of ASSIGNEE)

Wagistrasse 23,

Address

Switzerland

Nationality

CH-8952, Schlieren, Switzerland

and the successors, assigns and legal representatives of the ASSIGNEE

(complete one of the following)

☒ the entire right, title and interest  
☐ an undivided \_\_\_\_\_ percent ( \_\_\_\_\_ %) right, title and interest  
for the United States and its territorial possessions

(check the following box, if foreign rights are also to be assigned)

☒ and in all foreign countries, including all rights to claim priority, in and to any and all  
improvements which are disclosed in the invention entitled:  
IN VITRO SCREENING OF CELLULAR EVENTS USING 3D CELL CULTURE SYSTEMS

Name of inventor(s) Fabienne Andrea FULDE; Rupert HAGG and Roberto TOMMASINI

(check and complete (a), (b), (c), (d), (e), (f) or (g))

and which is found in (37 C.F.R. 3.21)

- (a) ☐ Not yet filed U.S. patent application executed on even date herewith  
(b) ☐ Not yet filed U.S. patent application executed on \_\_\_\_\_  
(c) ☐ Not yet filed U.S. provisional application naming the above inventor(s) for  
the above-entitled invention  
☐ To comply with 37 C.F.R. 3.21 for recordal of this assignment, I, an  
ASSIGNOR signing below, hereby authorize and request my  
attorney to insert below the filing date and application number when  
they become known.  
(d) ☐ U.S. patent application no. \_\_\_\_\_  
filed on \_\_\_\_\_  
(e) ☒ International application no. PCT/CH03/00377  
(f) ☐ U.S. patent no. \_\_\_\_\_ issued \_\_\_\_\_  
☐ A change of address to which correspondence is to be sent regarding  
patent maintenance fees is being sent separately.

(also check (g), if foreign application(s) is also being assigned)

(g) ☐ and any legal equivalent thereof in a foreign country, including the right to claim priority

and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, renewal, or substitute thereof, and as to letters patent any reissue or re-examination thereof.

ASSIGNOR hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment.

ASSIGNOR further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation or proceeding related thereto and will promptly execute and deliver to ASSIGNEE or its legal representatives any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof.

IN WITNESS WHEREOF, We have hereunto set hand and seal

**WARNING:** The date of signing must be the same as the date of execution of the application, if item (a) was checked above.

Fabienne Andrea FULDE

(type name of Assignor)

(X) [Signature]  
Signature of ASSIGNOR

this (X) 20/1/05  
date of signing

Rupert HAGG

(type name of Assignor)

(X) [Signature]  
Signature of ASSIGNOR

this (X) 20/01/05  
date of signing

Roberto TOMMASINI

(type name of Assignor)

(X) [Signature]  
Signature of ASSIGNOR

this (X) 20/1/05  
date of signing

\_\_\_\_\_  
(type name of Assignor)

(X) \_\_\_\_\_  
Signature of ASSIGNOR

this (X) \_\_\_\_\_  
date of signing

\_\_\_\_\_  
(type name of Assignor)

\_\_\_\_\_  
Signature of ASSIGNOR

this \_\_\_\_\_  
date of signing

(if ASSIGNOR is a legal entity, complete the following information)

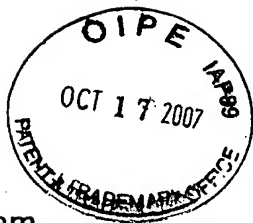
\_\_\_\_\_  
(type or print the name of the above person  
authorized to sign on behalf of ASSIGNOR)

\_\_\_\_\_  
Title

**NOTE:** No witnessing, notarization or legalization is necessary. If the assignment is notarized or legalized then it will only be prima facie evidence of execution. 35 USC 261. Use next page if notarization is desired.

☐ Notarization or Legalization Page Added.





**Evans, William**

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**From:** Evans, William  
**Sent:** Thursday, September 27, 2007 10:17 AM  
**To:** Villapol, Joseph  
**Cc:** Pardo, Pat  
**Subject:** FW: patent applications of Millenium Biologix AG

-----  
**From:** Siegfried Grimm[SMTP:sgrimm@eblum.ch]  
**Sent:** Thursday, September 27, 2007 10:08 AM  
**To:** WEvans@ladas.com; nymail@ladas.com  
**Subject:** patent applications of Millenium Biologix AG

Dear Colleagues:

We have been notified that our Client, Millenium Biologix AG, Schlieren, Switzerland has become a bankrupt. Thus, we will not attend to any further steps in relation to the patent applications  
our ref. 06854US01; SN10/517496; your ref. U015530-0  
our ref. 06855US01; SN10/517756; your ref. U015531-8  
our ref. 06856US01; SN10/517497; your ref. U015529-5 ✓

You may wish sending further correspondance to  
Millenium Biologix Corp. Canada  
Branch office Zurich,  
Wagistrasse 23  
8952 Zürich  
Switzerland

Best regards

Siegfried Grimm

--  
E.Blum & Co. AG  
Patent- & Markenanwälte  
Dr. Siegfried Grimm

Vorderberg 11, CH 8044 Zurich  
Tel.: ++ 41 43 2225600  
Fax.: ++ 41 43 2225601  
mail: Sgrimm@EBlum.ch

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**LADAS & PARRY LLP**  
INTELLECTUAL PROPERTY LAW



26 West 61st Street • New York, New York 10023-7604  
P 212.708.1800 • F 212.246.8959 • F 212.246.8925 • nymail@ladas.com • www.ladas.com

September 28, 2007

**REGISTERED MAIL**

Millenium Biologix AG  
Wagistrasse 23  
CH-8952 Schlieren  
Switzerland

Dear Sirs:

Re: FULDE - U.S.S.N. 10/517,497 - OUREF: U 015529-5 - BLUM'S REF: 06856US1  
ORAM - U.S.S.N. 10/517,496 - OUREF: U 015530-0 - BLUM'S REF: 06854US1  
BRUNNER - U.S.S.N. 10/517,756 - OUREF: U 015531-8 - BLUM'S REF: 06855US1

As US attorneys for the above applications, we have an obligation to protect your rights in the application.

However, we have been advised that financial considerations make it likely that these applications will be abandoned.

In order to relieve us of our obligation, please confirm that the applications are to be abandoned or send us instructions of the way you intend to continue them.

As application 10/517,497 (our ref: U 015529-5) has a pending Action on which monthly graduated extension fees are due for a Response by December (25) 26, 2007, and we must obtain approval of the Patent Office of withdrawal from our obligation to you thirty days in advance thereof, we must apply for such withdrawal, if necessary, as soon as possible, because the Patent Office is slow to act on such requests. Therefore, if we do not have your confirmation or instructions by October 25, 2007, we will be forced to request our withdrawal from the applications.

Very truly yours,

Clifford J. Mass

CJM/cy  
cc: E. Blum & Co. (By fax + 41 43 2225601)



**LADAS & PARRY LLP**  
INTELLECTUAL PROPERTY LAW

AT LINCOLN CENTER  
26 WEST 61st STREET  
NEW YORK, N.Y. 10023

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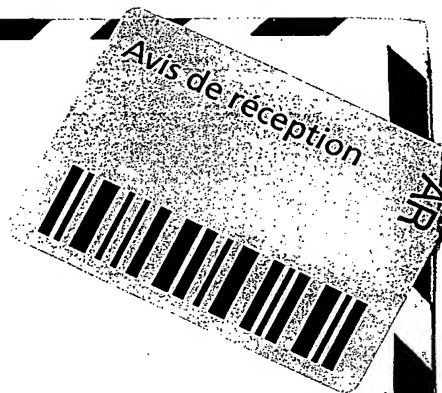
*Millennium Building AG  
Wagistrasse 23  
CH-8952 Schönen*

8010 Zürich-Mülligen BZ1



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**LADAS & PARRY LLP**  
INTELLECTUAL PROPERTY LAW

William R. Evans



wevans@ladas.com

212.708.1930

26 West 61st Street • New York, New York 10023-7604  
P 212.708.1800 • F 212.246.8959 • F 212.246.8925 • nymail@ladas.com • www.ladas.com

October 15, 2007

AIR MAIL

Millenium Biologix AG  
Wagistrasse 23  
CH-8952 Schlieren, Switzerland

Dear Sirs:

RE: Fabienne Andrea FULDE, et al.  
(MILLENNIUM BIOLOGIX AG)  
U. S. Patent Appln. 10/517,497  
E. Blum Ref.: 06856US1  
Our Ref.: U 015529-5

Our letter requesting instructions for responding to the Action on the above application has been returned to us as indicated in the attached copy of the Request for Withdrawal as Attorney that such return has forced us to file.

If this letter reaches you and you wish to make response, please do so at once.

Very truly yours,

William R. Evans

WRE:os